

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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In re:	:	
	:	PROMESA
THE FINANCIAL OVERSIGHT AND	:	Title III
MANAGEMENT BOARD FOR PUERTO RICO,	:	
	:	Case No. 17-BK-3283 (LTS)
as representative of	:	
	:	Re: ECF No. 15342
THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors. ¹	:	
	X	

**PSA CREDITORS' JOINDER TO AMBAC ASSURANCE CORPORATION'S URGENT
MOTION FOR ENTRY OF ORDER AUTHORIZING THIRD-PARTY DISCOVERY
UNDER BANKRUPTCY RULE 2004 CONCERNING PENSION LIABILITIES**

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233 (LTS)) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States Magistrate Judge Judith Gail Dein:

The Ad Hoc Group of Constitutional Debtholders (the “Constitutional Debt Group”),² the Ad Hoc Group of General Obligation Bondholders (the “GO Group”),³ the Lawful Constitutional Debt Coalition (the “LCDC”),⁴ and the QTCB Noteholder Group (the “QTCB Group,”⁵ and collectively with the Constitutional Debt Group, the GO Group, and the LCDC, the “PSA Creditors”) respectfully submit this joinder (the “Joinder”) to *Ambac Assurance Corporation’s Urgent Motion for Entry of Order Authorizing Third-Party Discovery Under Bankruptcy Rule 2004 Concerning Pension Liabilities* [ECF No. 15342] (the “Rule 2004 Motion”). In support of this Joinder, the PSA Creditors respectfully represent as follows:

1. The PSA Creditors are signatories to that certain Plan Support Agreement, dated February 9, 2020 (the “PSA”), which requires the PSA Creditors to, among other things, support the Financial Oversight and Management Board for Puerto Rico (the “FOMB”) in prosecuting the *Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* [ECF No. 11946] (the “Plan”).

2. The Rule 2004 Motion seeks information regarding the Commonwealth of Puerto Rico’s pension obligations and related analyses. As explained in the Rule 2004 Motion, this data

² The members of the Constitutional Debt Group and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Ad Hoc Group of Constitutional Debtholders Pursuant to Federal Rule of Bankruptcy Procedure 2019* [ECF No. 14520].

³ The members of the GO Group and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Ad Hoc Group of General Obligation Bondholders Pursuant to Bankruptcy Rule 2019* [ECF No. 14583].

⁴ The members of the LCDC and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Lawful Constitutional Debt Coalition Pursuant to Federal Rule of Bankruptcy Procedure 2019* [ECF No. 14316].

⁵ The members of the QTCB Group and their respective holdings are set forth in the *Seventh Supplemental Verified Statement of the QTCB Noteholder Group Pursuant Bankruptcy Rule 2019* [ECF No. 14708].

will inform the amounts available for debt service under the Commonwealth's fiscal plan and any consequent plan of adjustment. Rule 2004 Mot. ¶¶ 1-2, 20. That information is necessary to both enable the PSA Creditors to fulfill their obligations under the PSA to support the FOMB in seeking confirmation of the Plan, as well as to allow them to evaluate any amendments to that Plan that the FOMB may propose.⁶

3. The PSA Creditors file this Joinder in order to participate in the discovery process as contemplated by the Rule 2004 Motion. As reflected in the proposed order (the "Revised Proposed Order") attached to this Joinder as Exhibit A,⁷ such participation would include, but not be limited to: (1) receiving notice of and being permitted to examine deponents in any depositions taken in connection with the Rule 2004 Motion; (2) participating in meet and confer sessions; (3) receiving information or documents that are produced in connection with the Rule 2004 Motion; and (4) generally taking part in any other discovery efforts related to the Rule 2004 Motion.

4. The PSA Creditors reserve all rights to independently seek discovery pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, or any other form of discovery, on the topics identified or pursued in connection with the Rule 2004 Motion.

⁶ On October 29, 2020, the Court directed the FOMB to engage with its creditors in good faith regarding the Plan, and to file any amendments thereto that the FOMB believes may be necessary (or, at a minimum, a term sheet setting forth such revisions) by February 10, 2020. *See* ECF No. 14987. In accordance with the Court's order, and as recently disclosed by the FOMB, the PSA Creditors are currently engaged in confidential mediation regarding the Plan. *See* ECF No. 15345, ¶ 6. Notwithstanding such engagement, however, neither the FOMB nor the PSA Creditors have terminated the PSA—which remains in full force and effect—and the PSA Creditors expressly reserve all rights thereunder.

⁷ A redline comparison of the Revised Proposed Order to the proposed order submitted with the Rule 2004 Motion is attached to this Joinder as Exhibit B.

Dated: December 9, 2020
New York, New York

Respectfully submitted,

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Co-Counsel for the QTCB Noteholder Group

CERTIFICATE OF SERVICE

I hereby certify that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for the parties of record.

/s/ Gerardo A. Carlo
USDC-PR 112009

Exhibit A

Proposed Order

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

**[PROPOSED] ORDER GRANTING AMBAC ASSURANCE CORPORATION'S
MOTION FOR ENTRY OF ORDER AUTHORIZING THIRD-PARTY DISCOVERY
UNDER BANKRUPTCY RULE 2004 CONCERNING PENSION LIABILITIES**

Upon the Motion² of Ambac Assurance Corporation (“Ambac”), pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, for entry of an Order authorizing Ambac to seek third-party discovery from Milliman, Inc. (“Milliman”) in connection with pensions Rule 2004 discovery, as more fully set forth in the Motion; and the Court having jurisdiction to consider the

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481), (ii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566(LTS)) (Last Four Digits of Federal Tax ID: 9686), (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808), (iv) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474), and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19 BK 5233-LTS) (Last Four Digits of Federal Tax ID: 3801).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Motion and the relief requested therein in accordance with 28 U.S.C. § 1331 and PROMESA § 306(a); and venue being proper before this Court pursuant to 28 U.S.C. § 1391(b) and PROMESA § 307(a); and notice of the Motion having been given as provided in the Motion, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice of the Motion need be provided; and the Court having held a hearing to consider the relief requested in the Motion; and the Court having found and determined that the relief sought in the Motion and granted herein is in the best interests of the Debtor, its respective creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. Ambac is authorized, pursuant to Bankruptcy Rule 2004, to issue the subpoena attached as Exhibit E to the Motion.
3. Ambac is further authorized to issue a subpoena seeking deposition testimony from a Milliman representative pursuant to Federal Rule of Civil Procedure 30(b)(6) concerning the subject matter described in Exhibit E, with topics to be identified after a review of the produced materials.
4. Any documents produced to Ambac in response to a subpoena authorized under this Order shall also be produced to the Ad Hoc Group of Constitutional Debtholders (the “Constitutional Debt Group”),³ the Ad Hoc Group of General Obligation Bondholders (the “GO

³ The members of the Constitutional Debt Group and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Ad Hoc Group of Constitutional Debtholders Pursuant to Federal Rule of Bankruptcy Procedure 2019* [ECF No. 14520].

Group”),⁴ the Lawful Constitutional Debt Coalition (the “LCDC”),⁵ and the QTCB Noteholder Group (the “QTCB Group,”⁶ and collectively with the Constitutional Debt Group, the GO Group, and the LCDC, the “PSA Creditors”), and counsel to the PSA Creditors shall have the right to be notified of, attend, and participate in any deposition under Federal Rule of Civil Procedure 30 authorized under this Order. The PSA Creditors shall also have the right to participate in any meet and confer process or hearing related to the Motion or this Order, receive information or documents that are produced in connection with the Motion or this Order, and take part in any other discovery efforts related to the Motion or this Order. The PSA Creditors may also independently seek discovery pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, or any other form of discovery, on the topics identified or pursued in connection with the Motion or this Order.

5. Nothing herein shall limit Ambac’s or the PSA Creditors’ right to seek the deposition of a Milliman witness directly involved in the preparation of the actuarial valuation reports. Nothing herein shall limit Ambac’s or the PSA Creditors’ right to seek additional discovery, including any additional documents or depositions, under Bankruptcy Rule 2004 and applicable law, based on any information that may be revealed as a result of the information provided pursuant to this Order or otherwise.

6. This Court shall retain jurisdiction to resolve any dispute arising from or related to this Order and to interpret, implement and enforce the provisions of this Order.

⁴ The members of the GO Group and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Ad Hoc Group of General Obligation Bondholders Pursuant to Bankruptcy Rule 2019* [ECF No. 14583].

⁵ The members of the LCDC and their respective holdings are set forth in the *Eighth Supplemental Verified Statement of the Lawful Constitutional Debt Coalition Pursuant to Federal Rule of Bankruptcy Procedure 2019* [ECF No. 14316].

⁶ The members of the QTCB Group and their respective holdings are set forth in the *Seventh Supplemental Verified Statement of the QTCB Noteholder Group Pursuant Bankruptcy Rule 2019* [ECF No. 14708].

SO ORDERED.

Dated: _____, 2020

HONORABLE JUDITH GAIL DEIN
UNITED STATES MAGISTRATE JUDGE

Exhibit B

Redline to Proposed Order Included With the Rule 2004 Motion

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

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Debtors.¹

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4.5. Nothing herein shall limit Ambac’s or the PSA Creditors’ right to seek the deposition of a Milliman witness directly involved in the preparation of the actuarial valuation reports. Nothing herein shall limit Ambac’s or the PSA Creditors’ right to seek additional discovery, including any additional documents or depositions, under Bankruptcy Rule 2004 and applicable law, based on any information that may be revealed as a result of the information provided pursuant to this Order or otherwise.

5.6. This Court shall retain jurisdiction to resolve any dispute arising from or related to this Order and to interpret, implement and enforce the provisions of this Order.

⁴ The members of the GO Group and their respective holdings are set forth in the Eighth Supplemental Verified Statement of the Ad Hoc Group of General Obligation Bondholders Pursuant to Bankruptcy Rule 2019 [ECF No. 14583].

⁵ The members of the LCDC and their respective holdings are set forth in the Eighth Supplemental Verified Statement of the Lawful Constitutional Debt Coalition Pursuant to Federal Rule of Bankruptcy Procedure 2019 [ECF No. 14316].

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SO ORDERED.

Dated: _____, 2020

HONORABLE JUDITH GAIL DEIN
UNITED STATES MAGISTRATE JUDGE